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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,527	10/06/2003	Frederick Lowe	GSI-P0001	2526

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EXAMINER	
ESCALANTE, OVIDIO	

ART UNIT	PAPER NUMBER
2645	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/605,527	LOWE, FREDERICK	
	Examiner	Art Unit	
	Ovidio Escalante	2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 January 1970*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-70* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-70* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 5 and 70 objected to because of the following informalities:

Claim 5, line 2, "PASSPORT(R)" should be changed to --PASSPORT®--

Claim 70, in line 1, change "futher" to --further--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 41 recites the limitation "said phone" in line 1. There is insufficient antecedent basis for this limitation in the claim. The Examiner will examine claim 41 as if it dependent upon claim 38.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-3,6-8,10,12,14,19-32,35-38 and 41-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodnick US Patent 2002/0138302 in view of Wine et al. US Patent 6,137,834.

Regarding claims 1, 2,54 and 55, Bodnick teaches an apparatus (abstract; paragraphs 0032 and 0039) comprising:

an insert clip (custom message) comprising personalized media, (paragraphs 0036 and 0039);

a master clip (pre-recorded message) comprising an insertion point, (paragraphs 0036 and 0039);

a network interface, (fig. 3; paragraph 0022);

a computer coupled with said network interface wherein said computer further comprises a memory device comprising said insert clip and said master clip, (fig. 3; paragraph 0022);

a process executing on said computer wherein said process is configured to combine said insert clip with said master clip at said insertion point to create an output clip at said insertion point, (paragraphs 0032, 0036 and 0039).

While Bodnick teaches of inserting the insert clip with said master clip at said insertion point, Bodnick does not specifically state that the splicing of the two media clips are with undetectable transitions.

In the same field of endeavor, Wine teaches that it was well known in the art to have both seamless splicing (undetectable transitions) or non-seamless splicing audio/video merged together, (col. 2, line 59-col. 3, line 30,49-62; col. 4, lines 1-16, 34-46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bodnick by having undetectable transitions as taught by Wine so that the audio can be a continuous, undisturbed flow without any glitches.

Regarding claim 3, Bodnick, as applied to claim 1, teaches wherein said personalized media is associated with a username and password combination, (paragraphs 0020 and 0024).

Regarding claims 6-8, Bodnick, as applied to clam 1, teaches wherein said personalized media comprises a name, gender and product name, (paragraph 0024).

Regarding claim 10, Bodnick, as applied to claim 1, teaches a server farm, (paragraph 0027).

Regarding claim 12, Bodnick, as applied to claim 1, teaches a web server, a cache and wherein said memory device further comprises a database, (paragraphs 0031 and 0051).

Regarding claims 14,19 and 58, Bodnick as applied to claims 12 and 57, does not specifically teach wherein said cache comprises compressed media.

In the same field of endeavor, Wine teaches wherein cache comprises compressed media and wherein said media comprises video data, (col. 3, lines 19-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bodnick to include compressed media and wherein the media comprises video data as taught by Wine so that the transmission and storage of the media can take up less bandwidth and memory space.

Regarding claim 20, Bodnick, as applied to claim 12, teaches wherein said cache comprises uncompressed media, (paragraphs 0032 and 0039).

Regarding claims 21,22 and 59, Bodnick, as applied to claims 1 and 57, teaches a context clip comprising context information wherein said master clip further comprises a second insertion point and wherein said computer is further configured to combine said context clip with said master clip at said second insertion point at said insertion point.

While Bodnick teaches of inserting the insert clip with said master clip at said insertion point, Bodnick does not specifically state that the splicing of the two media clips are with undetectable transitions.

In the same field of endeavor, Wine teaches that it was well known in the art to have both seamless splicing (undetectable transitions) or non-seamless splicing audio/video merged together, (col. 2, line 59-col. 3, line 30,49-62; col. 4, lines 1-16, 34-46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bodnick by having undetectable transitions as taught by Wine so that the audio can be a continuous, undisturbed flow without any glitches.

Regarding claims 23-29, 60-61, 64-66 and 69-70, Bodnick, as applied to claim 21 and 57, teaches wherein said context information specifies the timing of a dispatch of said output clip, (paragraphs 0020 and 0031); is utilized in determining a delivery mechanism, (paragraph 0020); is utilized in determining a destination media player type, (paragraph 0023 and 0032); is utilized in determining when to avoid dispatching said output media clip, (paragraphs 0032-0036); comprises time information, (paragraph 0032); comprises calendar information, (paragraph 0032); and comprises location information, (paragraph 0032).

Regarding claims 30 and 31, Bodnick, as applied to claim 21, teaches wherein said insert clip, said master clip and said context clip comprise a celebrity voice (paragraph 0032) and further comprise metadata, (paragraph 0032).

Regarding claims 32,56 and 57, Bodnick as applied to claims 31 and 54, teaches wherein said metadata further comprises classification data, (paragraph 0032), identification data, (paragraph 0032); and a variable name, (paragraph 0032).

Regarding claims 35-38,62-63 and 67-68, Bodnick, as applied to claims 21 and 57, teaches a network capable playback device, (paragraphs 0006 and 0028); wherein said playback device comprises a browser, a PDA and a phone, (paragraphs 0006 and 0028).

Regarding claim 41, Bodnick, as applied to claim 35, teaches wherein said phone is configured to send a personalized media clip to a group of users, (paragraph 0031).

Regarding claims 42-53, while Bodnick in view of Wine do not specifically teach wherein the playback device is a credit card reader, ATM machine GPS enabled device, slot machine, loyalty card reader, kiosk, toy, set-top box or a hotel electronic door, the Examiner takes Official notice that provided with the suggestion from Bodnick and Wine which states that the playback device can be any portable, wireless device then one skilled in the art would have used any type of device to rely the personalized message to the user. These dependent claims represent a series of Species that are related to the Genus of the playback device therefore, the Examiner groups these claims together and believes that would have been obvious to one of ordinary skill in the art to use those devices in light of Bodnick and Wine so that the user can receive the information from any available electronic device.

7. Claims 4,9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodnick in view of Wine and further in view of Dickinson et al. US Patent Pub. 2005/0102244.

Regarding claims 4,9 and 13, Bodnick in view of Wine, as applied to claim 1, do not specifically teach wherein said personalized media is associated with a browser cookie or threads and a database mirror.

In the same field of endeavor, Dickinson teaches wherein said personalized media is associated with a browser cookie, (paragraph 0201); wherein said process comprises a controller thread, a listener thread, a cache management thread and a request processor thread, (paragraphs 0078, 0081 and 0090); and wherein said database comprises a database mirror, (paragraphs 0078, 0081 and 0090).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bodnick in view of Wine to included cookies and threads as taught by Dickinson so that the computer network will be able to process the personalized media if the request came via a computer based interface.

8. Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodnick in view of Wine and further in view of Alao et al. US Patent 2002/0147645.

Regarding claims 5 and 11, Bodnick in view of Wine do not specifically teaches where said personalized media is associated with a PASSPORT® or of using a load balancer.

In the same field of endeavor, Alao teaches that it was well known in the art to uses a PASSPORT® credential so that the system can retrieve a user's profile, (paragraph 0109). Alao further teaches that it was well known in the art to use a load balancer for distribution of processing resources, (paragraphs 0053 and 0057).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bodnick in view of Wine to use a PASSPORT® and load balancer as taught by Alao so that the user's personal profile, which is stored in the PASSPORT® can be used to determine the personalized media of the user that should be used or played.

9. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodnick in view of Wine and further in view of Marsot US Patent 2004/0125925.

Regarding claims 15-18, Bodnick and Wine, as applied to claim 6, do not specifically teach wherein said compressed media comprises a format of MP3 or OGG.

In the same field of endeavor, Marsot teaches wherein said compressed media comprises a format selected from the group consisting of MP3 or OGG, (paragraph 0043).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Bodnick and Wine to use OGG or MP3 as taught by Marsot so that the message recipient can receive the personalized message via a plurality of user devices.

10. Claims 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodnick in view of Wine and further in view of Parvulescu et al. US Patent 6,388,560.

Regarding claim 39, Bodnick and Wine, as applied to claim 35, do not teach wherein said playback device is configured to ring with said personalized media clip.

In the same field of endeavor, Parvulescu teaches wherein said playback device is configured to ring with said personalized media clip, (col. 2, lines 36-43; col. 3, lines 29-40).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Bodnick and Wine to ring with said personalized clip as

suggested and taught by Parvulescu so that the user can be notified/alerted that an incoming personalized response is being sent.

Regarding claim 40, Bodnick, as applied to claim 39, teaches wherein said personalized ring media clip uses a celebrity voice, (paragraphs 0032).

Conclusion

11. Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
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or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7537, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is 571-272-7537. The examiner can normally be reached on M-Th from 6:30AM to 4:00PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OVIDIO ESCALANTE
PATENT EXAMINER

Ovidio Escalante

Ovidio Escalante
Primary Patent Examiner
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November 8, 2005

O.E./oe